

SENATE BILL NO. 1370

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 2, 2023)

(Patron Prior to Substitute--Senator Vogel)

A BILL to amend and reenact § 56-585.1:5 of the Code of Virginia, relating to electric utilities; pilot program for underground transmission or distribution lines; additional projects.

Be it enacted by the General Assembly of Virginia:

1. That § 56-585.1:5 of the Code of Virginia is amended and reenacted as follows:

§ 56-585.1:5. Pilot program for underground transmission lines.

A. There is hereby established a pilot program to further the understanding of underground electric transmission lines in regard to electric reliability, construction methods and related cost and timeline estimating, the probability of meeting such projections, and the benefits of undergrounding existing electric transmission lines to promote economic development within the Commonwealth. The pilot program shall consist of the approval to construct qualifying electrical transmission lines of 230 kilovolts or less (but greater than 69 kilovolts) in whole or in part underground. Such pilot program shall consist of a total of ~~two~~ three qualifying electrical transmission line projects, constructed in whole or in part underground, as specified and set forth in this section.

B. Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this section, the Commission shall approve as a qualifying project a transmission line of 230 kilovolts or less that is pending final approval of a certificate of public convenience and necessity from the Commission as of December 31, 2017, for the construction of an electrical transmission line approximately 5.3 miles in length utilizing both overhead and underground transmission facilities, of which the underground portion shall be approximately 3.1 miles in length, which has been previously proposed for construction within or immediately adjacent to the right-of-way of an interstate highway.

26 Once the Commission has affirmed the project need through an order, the project shall be constructed in
27 part underground, and the underground portion shall consist of a double circuit.

28 The Commission shall approve such underground construction within 30 days of receipt of the
29 written request of the public utility to participate in the pilot program pursuant to this section. The
30 Commission shall not require the submission of additional technical and cost analyses as a condition of
31 its approval but may request such analyses for its review. The Commission shall approve the underground
32 construction of one contiguous segment of the transmission line that is approximately 3.1 miles in length
33 that was previously proposed for construction within or immediately adjacent to the right-of-way of the
34 interstate highway, for which, by resolution, the locality has indicated general community support. The
35 remainder of the construction for the transmission line shall be aboveground. The Commission shall not
36 be required to perform any further analysis as to the impacts of this route, including environmental impacts
37 or impacts upon historical resources.

38 The electric utility may proceed to acquire right-of-way and take such other actions as it deems
39 appropriate in furtherance of the construction of the approved transmission line, including acquiring the
40 cables necessary for the underground installation.

41 C. In reviewing applications submitted by public utilities for certificates of public convenience
42 and necessity for the construction of electrical transmission lines of 230 kilovolts or less filed between
43 July 1, 2018, and October 1, 2020, or filed between January 1, 2023, and October 1, 2023, the Commission
44 shall approve, consistent with the requirements of subsection D, one additional application filed between
45 July 1, 2018, and October 1, 2020, and one additional application filed between January 1, 2023, and
46 October 1, 2023, as a qualifying project to be constructed in whole or in part underground, as a part of this
47 pilot program. ~~The one two qualifying project projects, one of which shall be the relocation or conversion~~
48 ~~of an existing 230-kilovolt overhead line to an underground line and one of which shall be a newly~~
49 ~~proposed 230-kilovolt underground line,~~ shall be in addition to the qualifying project described in
50 subsection B ~~and shall be the relocation or conversion of an existing 230 kilovolt overhead line to an~~
51 ~~underground line.~~

52 D. For purposes of subsection C, a project shall be qualified to be placed underground, in whole
53 or in part, if it meets all of the following criteria: (i) an engineering analysis demonstrates that it is
54 technically feasible to place the proposed line, in whole or in part, underground; (ii) the governing body
55 of each locality in which a portion of the proposed line will be placed underground indicates, by resolution,
56 general community support for the project and that it supports the transmission line to be placed
57 underground; (iii) a project has been filed with the Commission or is pending issuance of a certificate of
58 public convenience and necessity by (a) October 1, 2020, or (b) October 1, 2023; (iv) the estimated
59 additional cost of placing the proposed line, in whole or in part, underground does not exceed \$40 million
60 or, if greater than \$40 million, the cost does not exceed 2.5 times the cost of placing the same line
61 overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability; if the
62 public utility, the affected localities, and the Commission agree, a proposed underground line whose cost
63 exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; (v)
64 the public utility requests that the project be considered as a qualifying project under this section; and (vi)
65 the primary need of the project shall be for purposes of grid reliability, grid resiliency, or to support
66 economic development priorities of the Commonwealth, including the economic development priorities
67 and the comprehensive plan of the governing body of the locality in which at least a portion of line will
68 be placed, and shall not be to address aging assets that would have otherwise been replaced in due course.

69 E. A transmission line project that is found to meet the criteria of subsection D shall be deemed to
70 satisfy the requirements of subsection B of § 56-46.1 with respect to a finding of the Commission that the
71 line is needed.

72 F. Approval of a transmission line pursuant to this section for inclusion in the pilot program shall
73 be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such
74 transmission line and any associated facilities, such as stations, substations, transition stations and
75 locations, and switchyards or stations, that may be required.

76 G. The Commission shall report annually to the Commission on Electric Utility Restructuring, the
77 Joint Commission on Technology and Science, and the Governor on the progress of the pilot program by
78 no later than December 1 of each year that this section is in effect. The Commission shall submit a final

79 report to the Commission on Electric Utility Restructuring, the Joint Commission on Technology and
80 Science, and the Governor no later than December 1, 2024, analyzing the entire program and making
81 recommendations about the continued placement of transmission lines underground in the
82 Commonwealth. The Commission's final report shall include analysis and findings of the costs of
83 underground construction and historical and future consumer rate effects of such costs, effect of
84 underground transmission lines on grid reliability, operability (including operating voltage), probability
85 of meeting cost and construction timeline estimates of such underground transmission lines, and economic
86 development, aesthetic or other benefits attendant to the placement of transmission lines underground.

87 H. For the qualifying projects chosen pursuant to this section and not fully recoverable as charges
88 for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the Commission shall approve
89 a rate adjustment clause. The rate adjustment clause shall provide for the full and timely recovery of any
90 portion of the cost of such project not recoverable under applicable rates, terms, and conditions approved
91 by the Federal Energy Regulatory Commission and shall include the use of the fair return on common
92 equity most recently approved in a State Corporation Commission proceeding for such utility. Such costs
93 shall be entirely assigned to the utility's Virginia jurisdictional customers. The Commission's final order
94 regarding any petition filed pursuant to this subsection shall be entered not more than three months after
95 the filing of such petition.

96 I. The provisions of this section shall not be construed to limit the ability of the Commission to
97 approve additional applications for placement of transmission lines underground. Approval by the
98 Commission of a transmission line for inclusion in the program pursuant to subsection B shall preclude
99 the placement of future overhead electrical transmission lines of at least 69 kilovolts in the same right-of-
100 way as described in subsection B for a period of 10 years from July 1, 2018, but shall not preclude the
101 placement of (i) any underground transmission lines in such right-of-way or (ii) any electrical distribution
102 lines in such right-of-way.

103 J. If ~~two~~ three applications are not submitted to the Commission that meet the requirements of this
104 section, the Commission shall document the failure of the projects to qualify for the pilot program in order
105 to justify approving fewer than ~~two~~ three projects to be placed underground, in whole or in part.

106 K. Insofar as the provisions of this section are inconsistent with the provisions of any other law or
107 local ordinance, the provisions of this section shall be controlling.

108 L. In addition to the projects described in subsection B or C and notwithstanding any provision of
109 this section to the contrary, the pilot program shall consist of one qualifying electrical distribution mainline
110 project constructed in whole or in part underground, as specified and set forth in this subsection. The
111 qualifying project shall consist of a project to place underground an electric distribution mainline as part
112 of a transportation infrastructure improvement project incorporating transit that has been initially accepted
113 for partial funding of at least \$250 million pursuant to 49 U.S.C. § 5309. Such project shall be qualified
114 to be placed underground if (i) the estimated additional cost of placing the proposed mainline, in whole
115 or in part, underground does not exceed \$40 million or, if greater than \$40 million, the cost does not
116 exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for
117 undergrounding to ensure safety and reliability; if the public utility, the affected localities, and the
118 Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line
119 overhead may also be accepted into the pilot program and (ii) the public utility requests that the project
120 be considered as a qualifying project under this section. The provisions of this subsection shall expire on
121 July 1, 2028.

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